Witness Denies Getting Order on Pentagon Papers

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LOS ANGELES, Feb. 1—The director of the Pentagon's Office of Security Review denied today that he had ever written a memorandum recording an order to remove studies of the Pentagon papers from his office files.

Charles W. Hinkle, testifying at a hearing that has interrupted the Pentagon papers trial of Daniel Ellsberg and Anthony J. Russo Jr., said he had never received such an order from his superiors or the office of the Pentagon's general counsel.

Although he couched each of his statements with the proviso that it was based on his "recollection" and not "certainty," Hinkle's testimony directly conflicted with that of one of his former assistants, retired Air Force Lt. Col. Edward A. Miller Jr.

Miller testified on Wednesday and again today that he had not only seen the memorandum, but had on at least one occasion discussed with Hinkle the order to remove the studies, written by Miller, from the files.

The studies, which Miller prepared in December, 1971, state that there is "no classified information" in nine volumes of the Pentagon papers which are included in the indictment against Ellsberg and Russo on charges of conspiracy, espionage and theft of government property.

Defense attorneys contend that Miller's studies help establish that the volumes did not relate to the "national defense"—a relationship that is crucial to the prosecution's effort to prove the espionage charges.

Miller today characterized his studies as "working papers" that contributed to another set of studies prepared by a National Security Agency expert working for the Pentagon general counsel, J. Fred Buzhardt.

If there were such "working papers," the defense says, the prosecution, by not turning them over months ago, violated a pretrial order issued last April by U.S. District Court Judge W. Matt Byrne Jr.

Questioned by chief prosecutor David R. Nissen this afternoon, Hinkle insisted that he did not assign Miller to do the studies and "was unaware" that he was working on them at the time.

It is the contention of the prosecution and various Pentagon officials who have appeared in federal court here this week that the Miller studies were only discovered in the Pentagon files last Monday.

Defense attorneys have apparently had copies of them for months, however.

Although Miller has acknowledged that he took copies with him when he retired from the military last July, no direct link has been established between those copies and the ones available to the defense.

Despite the stark contrast in their testimony, both Miller and Hinkle stressed under questioning that they hold each other in "high esteem." They have been openly friendly to each other in the courtroom.